



MILPITAS PLANNING COMMISSION STAFF REPORT

November 24, 2014

APPLICATION: **INTEGRAL CENTRE POINTE MIXED USE — MT13-0007, SD13-0013, UP13-0013** – A request for a Site Development Permit, Major Tentative Map and Conditional Use Permit for the construction of 362 apartment units, approximately 55,431 square feet of commercial space in a mixed use building and approximately 241 condominium/townhouse units and associated site improvements on 15.68 acres (“Project”).

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 14-038 recommending the City Council deny the Major Tentative Map, Site Development Permit and Conditional Use Permit for 362 apartment units, approximately 55,431 square feet of commercial space in a mixed use building and approximately 241 condominium/townhouse units and associated site improvements located in the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan (TASP).**

Address/APN: 1310 – 1360 McCandless Dr. (APN: 086-33-101)
Area of City: 1463 Centre Pointe Dr. (APN: 086-33-086)
1501, 1507, 1515 Centre Pointe Dr. (APN: 086-33-087)
1536 – 1567 Centre Pointe Dr. (APN: 086-33-088)
1577 – 1601 Centre Pointe Dr. (APN: 086-33-089)
Transit Area Specific Plan (TASP) area – McCandless/Centre Pointe and Montague Corridor sub-districts

PEOPLE:

Project Applicant: Glenn Brown, Integral Communities McCandless LLC
Consultant(s): Jorge Duran, RJA Civil Engineers
Property Owner: Mission West Properties, L.P. 11
Project Planner: Steve McHarris, Planning & Neighborhood Services Director

LAND USE:

General Plan Designations: Residential Retail High Density Mixed Use (RRMU); Multi-Family Residential High Density (MFH); and Boulevard Very High Density, Mixed Use (BVHDMU)
Zoning District: High Density Mixed Use (MXD2); Multi-Family High Density Residential (R3); Mixed Use, Very High Density (MXD3)
Overlay District: Transit Oriented Development (TOD) and Site and Architectural Overlay (S)

ENVIRONMENTAL:

As further explained in this Report, the proposed Project is inconsistent with the Transit Area Specific Plan and additional environmental review, study and analysis will be required if the City Council wishes to approve the proposed Project to determine whether it is consistent with the Transit Area Specific Plan EIR (State Clearinghouse No. 2006032091) certified by the City Council on June 3, 2008 (Resolution No. 7759). Additional technical studies are required and include a traffic impact analysis, parking study, and noise study.

PROJECT DATA:

General Plan/Zoning Designation:

Address	General Plan	TASP Land Use	Zoning
1310 – 1360 McCandless Dr.	Residential Retail High Density Mixed Use (RRMU)	Residential - Retail High Density Mixed Use	High Density Mixed Use (MXD2)
1463 Centre Pointe Dr.	Residential Retail High Density Mixed Use (RRMU)	Residential - Retail High Density Mixed Use	High Density Mixed Use (MXD2)
1501, 1507, 1515 Centre Pointe Dr.	Residential Retail High Density Mixed Use (RRMU)	Residential - Retail High Density Mixed Use	High Density Mixed Use (MXD2)
1536 – 1567 Centre Pointe Dr.	Multi-Family Residential High Density (MFH)	High Density Transit Oriented Residential	Multi-Family High Density Residential (R3)
1577 – 1601 Centre Pointe Dr.	Boulevard Very High Density Mixed Use (BVMU)	Boulevard Very High Density Mixed Use (BVMU)	Very High Density Mixed Use (MXD3)

Overlay District: Site and Architectural (-S) and Transit Oriented Development (-TOD)
Specific Plan: Transit Area Specific Plan (TASP)

Site Area: 15.68 acres

EXECUTIVE SUMMARY

The proposed Project includes entitlement requests to create three (3) neighborhoods within the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan (TASP): Neighborhoods 'A', 'B', and 'C', are comprised of 603 units and 55,431 square feet of commercial space. Neighborhood A contains one large seven story mixed use structure with 362 apartment units and all of the commercial square footage. The apartments consist of one and two bedroom units. Neighborhoods B and C contain 241 condominium/townhome units comprised of two and three bedrooms with three and four stories and two car garages (tandem and side by side) located at the ground floor. The proposed development would also include the creation of local streets and associated site improvements. The site is located within a variety of zoning districts. However, the

predominant zone is the High Density Mixed Use Zoning District (MXD2) (See Figure 1 - Zoning Map). The purpose of the MXD2 zoning district is to encourage a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. In addition, the sites are located within the McCandless/Centre Pointe and Montague Corridor sub-districts of the TASP. The McCandless/Centre Pointe sub-district envisions this area to be the best location for successful retail mixed use district, building off the established retail destination of The Great Mall and the visibility along Great Mall Parkway. The Montague Corridor sub-district envisions a grand boulevard with lush landscaping and a row of high profile buildings. The TASP land use map also identifies the sites as Residential – Retail High Density Mixed Use, Boulevard Very High Density Mixed Use, and High Density Transit Oriented Residential (see Figure 2 – TASP Land Use Plan).

Staff is recommending denial because the proposed Project is **inconsistent** with the City of Milpitas General Plan, the TASP and the Zoning Ordinance. The proposed Project is inconsistent with these plans in three major areas:

1. Inconsistent residential land uses;
2. Inconsistent commercial land uses; and
3. Inconsistent transportation network.

The proposed Project does not implement the key TASP vision of an attractive high density urban neighborhood with mixed use districts and high profile buildings off of Montague Expressway. More specifically, the project proposes ground floor residential uses in zoning districts where they are not allowed. Additionally, these three to four story condominium/townhome units are located on parcels where the TASP envisioned very high density mixed use and high profile buildings. Further, similar to the “District” project, this Project proposes relocating commercial uses to the front of the development, rather than establishing mixed use neighborhoods as prescribed and envisioned by the TASP. Lastly, the Project’s circulation system does not match the street network identified in the TASP. Due to these inconsistencies with the General Plan, the TASP and the Zoning Ordinance, staff is recommending denial of the project.

Figure 1
Project Zoning Map



Figure 2
TASP Land Use Plan

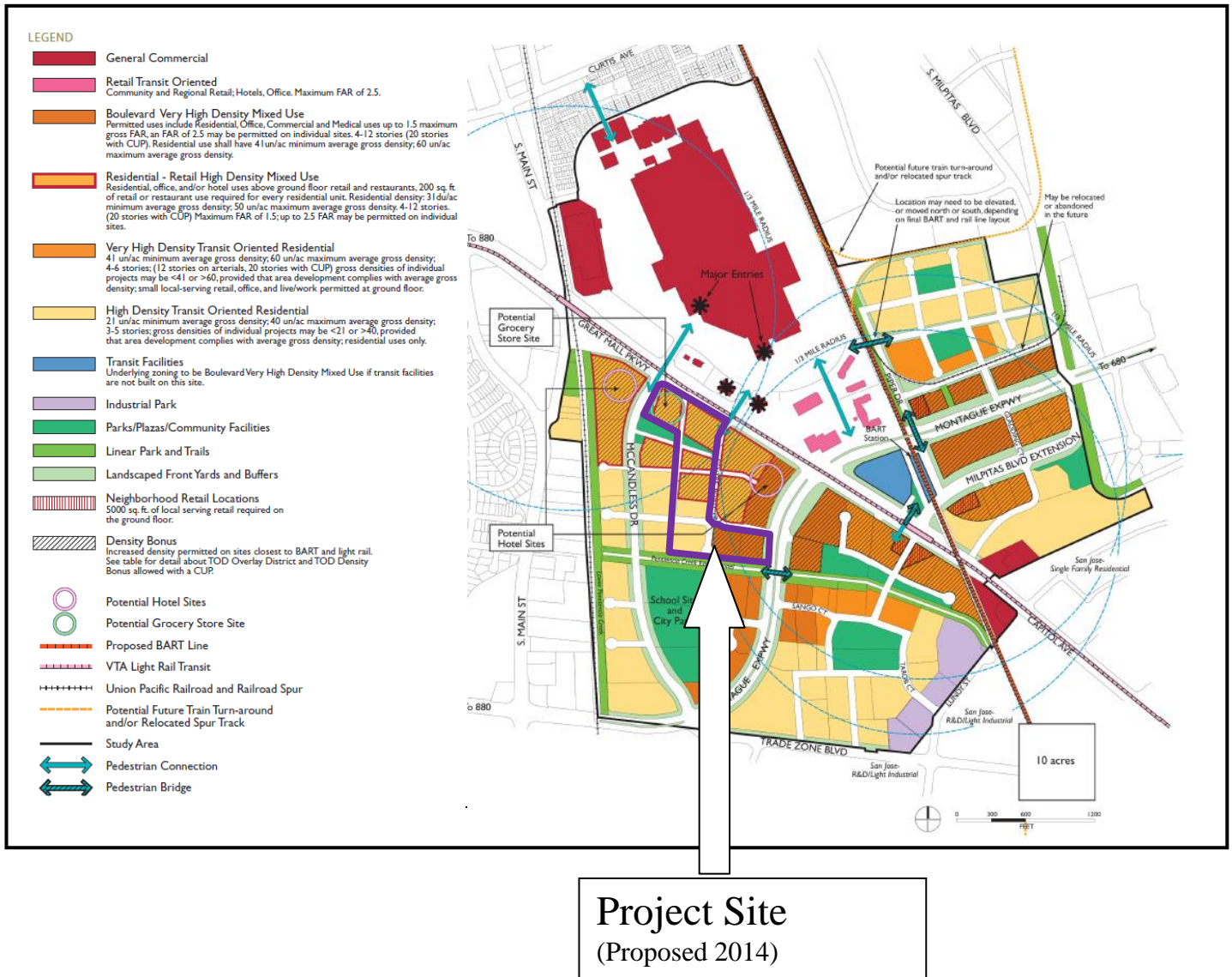


Figure 3
Location Map



BACKGROUND

Overview of Key Dates and Approvals

On June 3, 2008, the City Council adopted the Transit Area Specific Plan (TASP). The key vision of the plan is to:

“Create attractive high density urban neighborhoods with a mix of land uses around the light rail stations and future BART station in Milpitas. Create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.”

The TASP encompasses 437 acres and promotes the development of 7,109 dwelling units, 287,075 square feet of retail space, 993,843 square feet of office and industrial space. The TASP includes transit-oriented development standards, goals and policies guiding development within the plan area. The TASP also established sub-districts with specific goals and policies to accommodate unique transit-oriented neighborhood characteristics.

The proposed Project is within the McCandless/Centre Pointe and Montague Corridor sub-districts of the Transit Area Specific Plan. The sub-districts are generally located adjacent to the Great Mall and is bisected by McCandless Drive, and extend to Montague Expressway. For the McCandless/Centre Pointe sub-district, the TASP envisioned this to be the best location for successful retail mixed use district, building off the established retail destination of the Great Mall and the visibility along Great Mall Parkway.

The TASP includes multiple land uses that implement the McCandless/Centre Pointe and Montague Corridor sub-districts’ vision. The sub-district’s designated high density residential and retail mixed use along Great Mall Parkway, extending south along the western border of Centre Pointe Drive. The TASP includes a small portion of high density residential uses at the southwest corner of Centre Pointe Drive. At the southwest intersection of Centre Pointe Drive and Montague Expressway, the TASP prescribes very high density mixed uses, comprised of high profile buildings. Figure 2 illustrates the proposed land uses for the McCandless/Centre Pointe and Montague Corridor sub-districts.

On June 4, 2008, Glenn Brown of Integral Communities McCandless, LLC submitted an application to create a subdivision for the purposes of accommodating future residential development in the sub-district. The plans included infrastructure, roadway and open-space improvements. This project was referred to as “The District.”

On September 7, 2010, the City Council approved “The District” project. The project encompassed 23 acres and included 1,328 dwelling units, 75,000 square feet of commercial space and eight buildings along McCandless. Please refer to the Agenda Item IX-1: Integral District One, Lots 2, 3, and 4 Amendment (“District One, Lots 2, 3, and 4 Amendment”) staff report from the November 24, 2014 Planning Commission meeting for additional background concerning “The District” project.

On March 20, 2012, the City Council approved Integral Communities “District I and II” project. This project divided the 23-acre “District” into distinct neighborhood components:

- (1) Four lots, numbered one through four, with four buildings on 13 acres closest to Great Mall Parkway referred to as “District 1.” This consisted of a mixed-use project with commercial on the first floor and residential units above wrapped around multi-story parking garages; and
- (2) Balance of the project site is referred to as “District 2” that includes lower density condominium/townhome project on 10 acres. The number of units on these lots was reduced from 426 units to 200 units.

A portion of the Centre Point Project was originally located in the currently approved “District I and II” project from 2012. Figure 4 below illustrates the four lots located in District I. The 2014 “District One, Lots 2, 3, and 4 Amendment” project removes Lot 3 from District I. The “District One, Lots 2, 3, and 4 Amendment” project incorporates Lot 3 with the Centre Pointe Project.

Figure 4
2012 Project Approval

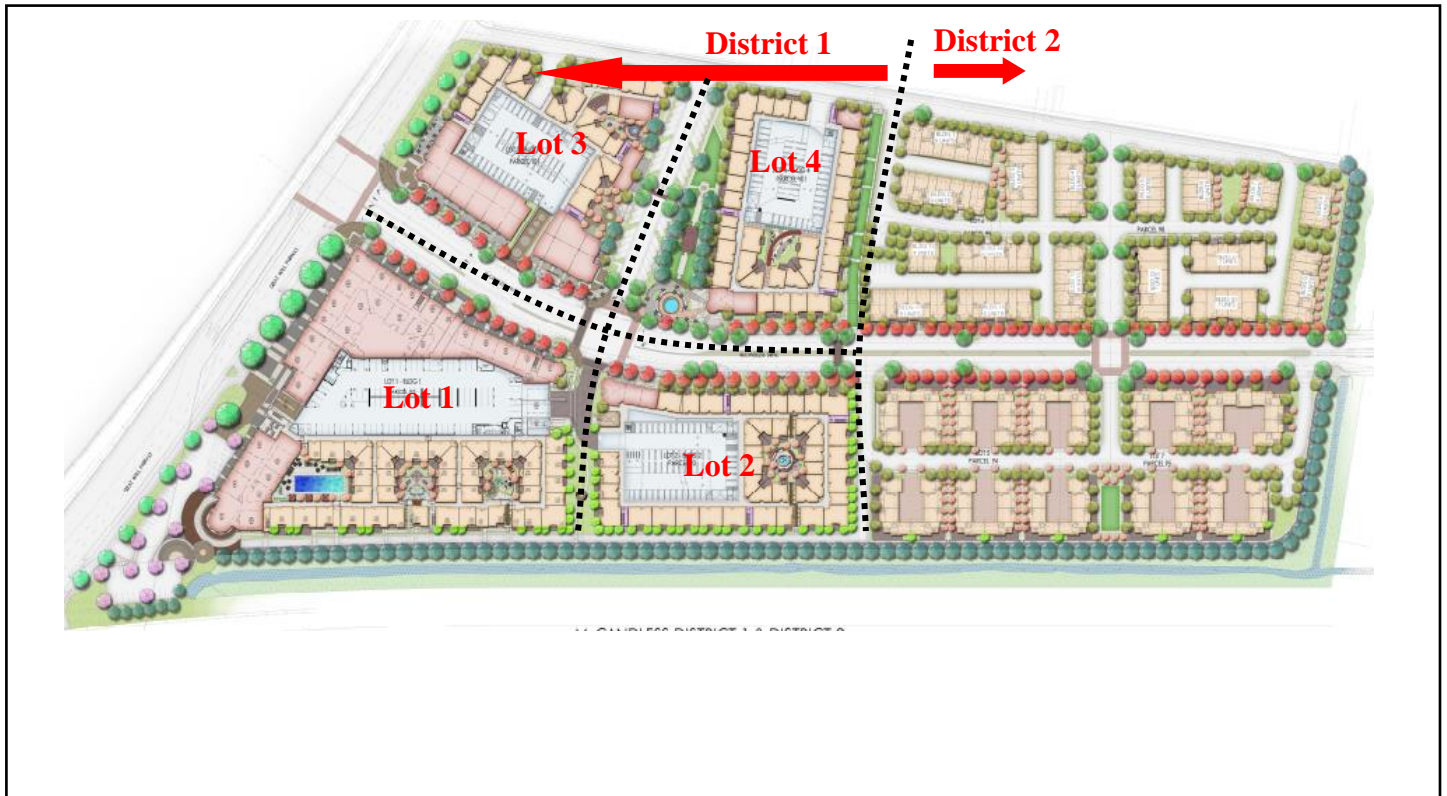


Figure 5
Removed Lot 3 from “The District” Project – Included with Centre Pointe



PROJECT DESCRIPTION

Overview

Site and surrounding uses

The proposed Project comprise 15.68 acres located in the northwestern portion of the TASP. The properties are generally bounded by Great Mall Parkway to the north, Centre Pointe Drive to the east, Penitencia Creek to the south, and Bond Street to the west.

Surrounding the subject project site are developed parcels. East of the project includes developed industrial buildings on similarly zoned properties. To the north of the project site is the Great Mall on commercially zoned property. To the south of the project site is the East Penitencia Creek and other existing industrial buildings on residentially zoned properties. A site zoned for residential but designated as open space within the TASP also exists to the south of the proposed Project. Townhomes exist to the west of the proposed Project and are zoned High Density Transit Oriented Residential. A vicinity map of the subject site location is included on page 2 for reference.

Requested Entitlements

The Application

The following is a summary of the applicant's request:

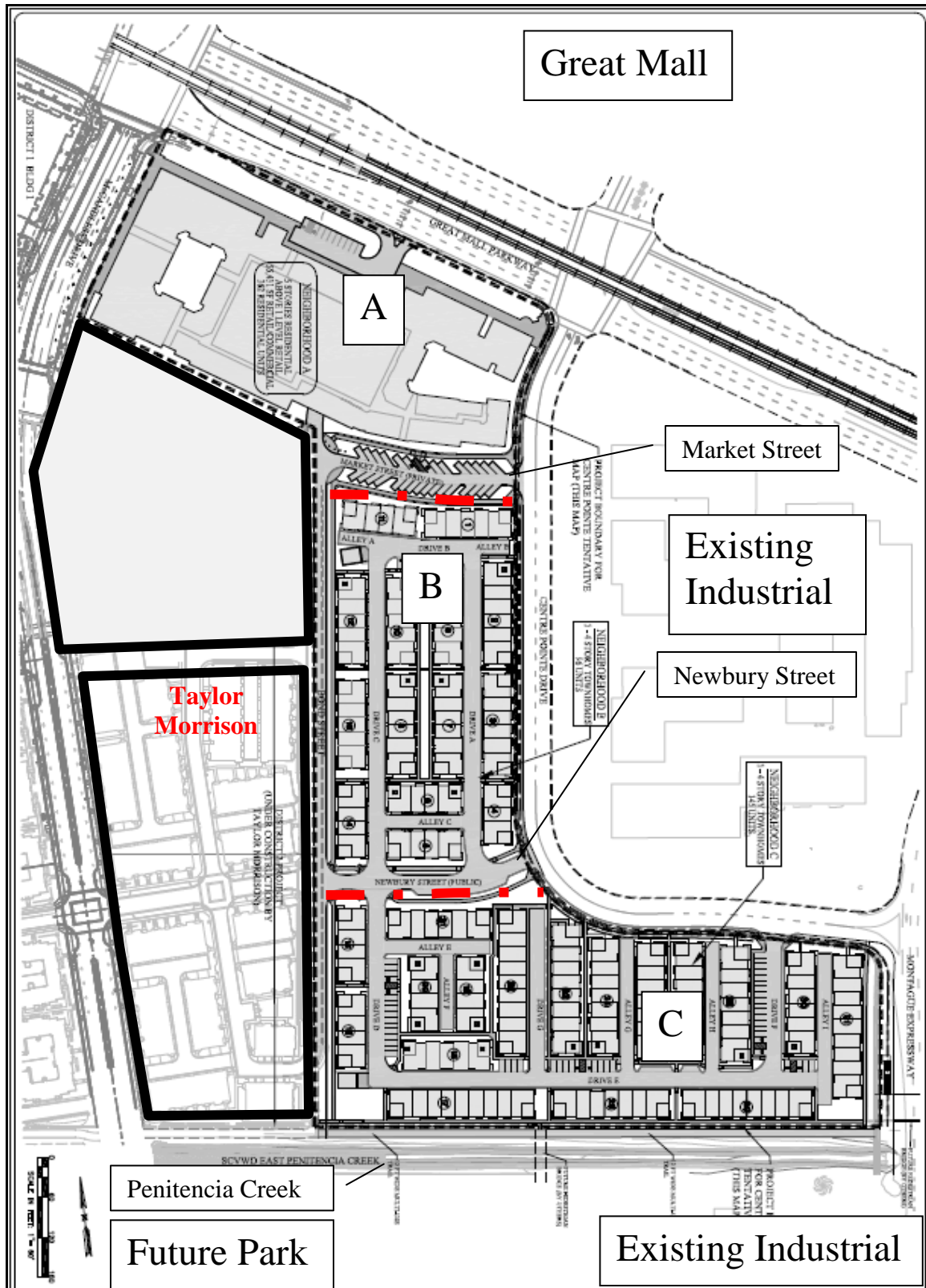
- *Site Development Permit:* To allow the construction of the buildings and site improvements.
- *Major Tentative Map:* To subdivide the parcel into Neighborhoods A, B and C for apartments and condominium/townhome uses located on 31 residential lots
- *Conditional Use Permit:* To allow a Major Tentative Map for condominium/townhome purposes; to allow a 25 percent density bonus in the MXD2 Zone for Neighborhood A; and to allow on-street parking for commercial uses to count towards the overall parking requirements.

Neighborhood A – One Large Building

The applicant is processing an amendment to the approved "District I" project under the titled "District One, Lots 2, 3, and 4 Amendment," (see Agenda Item IX-1) which proposes to remove Lot 3 (shown in Figures 4 and 5) from the District 1. The "District One, Lots 2, 3, and 4 Amendment" project places Lot 3 in the Centre Pointe project as a portion of Neighborhood A in this application.

Neighborhood A consists of a seven story mixed use building. The building fronts on to Great Mall Parkway and spans the entire 650 lineal feet of frontage from McCandless Drive to Centre Pointe Drive. The first and second floors are comprised of 55,431 square feet of retail space. Ground floor retail uses are proposed to front McCandless Drive and Great Mall Parkway. Residential uses would also occur on the first and second floors. The residential units would front the southern and eastern portions of the site, along Centre Pointe Drive and the proposed private Market Street, where TASP permits public and/or private streets, but requires that they conform to the cross sections established in Chapter 5 of the TASP. Floors three through seven would contain the remainder of the 362 apartment units.

Figure 6
Proposed Centre Pointe Project – Neighborhoods A, B and C



Access to the site is from a driveway off of Great Mall Parkway. The applicant proposes a private road, where TASP permits public and/or private streets, that borders the southern edge of the neighborhood, which would parallel Great Mall Parkway. This private road, labeled “Market Street” would be one way, and would start at Centre Pointe and travel westward to a traffic circle at its intersection with Bond Street. It would then continue westward to its terminus with the McCandless Drive. Approximately 31 angled parking spaces are located on the north and south side of this street prior to its intersection with the Bond Street traffic circle. The remainder of the parking is located in a multi-story garage containing 751 parking stalls. The residential and commercial portions of the structure are essentially wrapped around this garage. Commercial and residential parking is located on the first two floors, and the remainder of the floors contain the residential parking spaces.

Neighborhoods B and C – 241 Condominium/Townhome Units

Neighborhoods B and C consists of three and four story condominium/townhome units. The applicant proposes constructing 241 condominium/townhome units comprised of two and three bedroom floor plans. Access to these units is provided from Newbury Street, an east-west local street spanning from Centre Pointe Drive to Bond Street. The units front on paseos with alley loaded tandem and side-by-side two car garages.

Table 1 and 2 summarize key attributes of the proposed developments.

Landscaping, Open Space and Trails

The Project will include a new planting scheme providing a variety of turf, shrubs, vines and trees throughout the development. The Project also proposes a pedestrian pathway along East Penitencia Creek. The project plans identify a future pedestrian bridges across Penitencia Creek and one located at the southeast corner their site across Montague Expressway. The plans state that these bridges are to be built by others.

Table 1
Project Zoning, Density and Area Summary

Neighbor hood	Zoning District	Acres	Unit Mix				Total Units	Density	Commercial Area					
			ST	1 BR	2 BR	3 BR								
A	High Density Mixed Use (MXD2)*	4.47	0	203	159	0	362	80.9 du /ac	55,431 square feet					
Subtotal				56.1 %	43.9%									
B	High Density Mixed Use (MXD2)*	3.38	0	0	62	179	241	28.4 du /ac	0					
	Multi-Family High Density Residential (R3)*													
C	Multi-Family High Density Residential (R3)*	5.79						0	0	62	179	241	25.0 du /ac	0
	Very High Density Mixed Use (MXD3)*													
Subtotal					25.7%	74.2%								
Streets, Parks, Open Space		2.04												
Totals		15.68	0	203	221	179	603		55,431					

* Each parcel has a Site and Architectural and Transit Oriented Development Overlays requiring focused design and high quality treatment of projects near transit nodes.

Parking Proposed

Table 2
Parking Summary

Neighborhood	Residential Stalls	Residential Guests	Commercial	Total	Required	Bicycle	Motorcycle
A	498	76	177	751	751	110	24
B	482 garage spaces	68 uncovered	NA	550	550		
C							

PROJECT ANALYSIS

The proposed Project is **inconsistent** with the City’s General Plan, the TASP, and Zoning Ordinance in three distinct major areas:

1. Land Use – inconsistent land uses with the TASP and Zoning Districts.
2. Commercial Uses – inconsistent location of commercial areas.
3. Circulation System – inconsistent with overall TASP vision of a transit oriented development with short block lengths, inconsistent street network, and inconsistent circulation and access.

General Plan, Specific Plan and Zoning Conformance

The table below outlines the Project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 3
General Plan Consistency

Policy	Consistency Finding
<i>2.a.1-31: Require development in the Transit Area to conform to the adopted design guidelines and requirements contained in the Transit Area Plan.</i>	<u>Inconsistent.</u> The proposed Project does not conform to the street layout, street sections, density and land use. An explanation is provided below in the “ Transit Area Specific Plan ” section describing these inconsistencies.
<i>2.a.-G-2: Maintain a relatively compact urban form.</i>	<u>Inconsistent.</u> The proposed Project provides a high density mixed use development in Neighborhood A, but does not provide mixed use development in Neighborhood B and C on certain designated property required to have commercial/retail. Further, the proposed Project does not conform to the TASP vision of a walkable, pedestrian friendly, transit oriented design with short block lengths, compact urban form, and mixed use development

Transit Area Specific Plan and Zoning

1. **Land Use**

Land Uses

The street level condominium/townhome units in Neighborhood B are inconsistent with the “Residential – Retail High Density Mixed Use” Specific Plan land use classification and are not permitted in the MXD2 zoning district. The TASP “Residential – Retail High Density Mixed Use” land use classification is intended for ground floor retail and restaurant uses with residential, office, and/or hotel uses on the upper levels. Additionally, the MXD2 zoning designation prohibits multi-family housing as a primary use on the ground floor. The Project includes ground floor multi-family housing in Neighborhood B. As identified above, this is not permitted in the MXD2 zone and is inconsistent with the vision for the Residential – Retail High Density Mixed Use district in the TASP. An application for a specific plan amendment and zone change is necessary

to consider the ground floor condominium/townhome units in Neighborhood B as proposed. The applicant has not requested these entitlements.

Like Neighborhood B, mixed use Specific Plan classifications and zones are found in Neighborhood C. The Specific Plan and Zoning classifies a portion of the land uses in Neighborhood C as Boulevard Very High Density Mixed Use (BVHDMU) and the Very High Density Mixed Use Zone (MXD3), respectively. Unlike Neighborhood B, the BVHDMU and MXD3 zone does not prohibit ground floor residential uses. However, the classification and zone encourages high intensity office, commercial, and mixed use development.

It is important that properties in Neighborhood C incorporate commercial and professional office uses. The TASP anticipated and planned for the properties with the MXD3 Zone to be developed with commercial and retail uses. By not including these uses in Neighborhood C, the office and commercial square footage allocated in the TASP will be transferred to other parcels and create an imbalance and overly concentration of office and commercial use on certain parcels and none in others. This process creates single residential use areas, which is inconsistent with the TASP land use and Zoning vision. The TASP envisioned the Montague Corridor sub-district as an attractive, high density, urban neighborhood with a mix of land uses including rows of high profile buildings along Montague Expressway. Shifting the required retail uses to one large building along Great Mall Parkway further degrades the overall vision for the TASP.

Neighborhood C is located in the Montague Corridor sub-district of the Specific Plan. The sub-district encourages high rise buildings along Montague Expressway (Policy 4.1 (MON)). The proposed Project is inconsistent with this policy because it provides three- and four-story residential condominiums/townhomes along Montague Expressway as zoned for and envisioned in the TASP.

Density

The project is spread across three zoning districts. The TASP and Zoning Ordinance requires the following residential densities for each Zone:

- MXD2-TOD – 31 and 50 dwelling units per gross acre;
- R3-TOD – 21 to 40 dwelling units per gross acre; and
- MXD3-TOD – 41 to 60 dwelling units per gross acre.

Table 4 identifies an analysis of the Project's compliance with these density requirements and clearly identifies the Project's inconsistencies.

Table 4
Centre Pointe Residential Density Analysis

Zone	Acres	Units Proposed	Residential Density	Residential Density Requirement	Below, Between, Above Requirement
MXD2-TOD	8.128	435 units	53.5 dwelling units per acre	31 – 50 dwelling units per acre	Above (3.5 du/ac greater than maximum)
R3-TOD	4.195	95 units	22.6 dwelling units per acre	21 – 40 dwelling units per acre	Between (1.6 du/ac greater than minimum)
MXD3-TOD	2.927	73 units	24.9 dwelling units per acre	41 – 60 dwelling units per acre	Below Minimum (16 du/ac less than minimum)
	15.25 acres*	603 units	39.5 du/ac average		

* excludes 0.43 acre “Triangle Park” because it is a part of “District I” project

The residential density provided in the MXD3 Zone of the Project is **16 dwelling units per acre less than the minimum** amount required by the Specific Plan and Zoning. To address this, the TASP (Policy 3.8) allows for averaging the residential density over parcels in the development. The City has the discretion to consider residential density transfers when considering the overall TASP vision and various urban design policies and guidelines in while. The Policy never intended to allow a blanket shift of residential units from one zone to another in the mass and quantity requested by the applicant.

Properties Zoned MXD2 only exceed the maximum density by approximately 3.5 dwelling units per acre. The result of this project is similar to the “District I” project. The Centre Pointe Project proposes moving the residential density towards the northern end of the development, while diluting the southern portion. Ultimately, this approach is inconsistent with the TASP and Zoning objectives for “high density urban neighborhoods,” and leaves the TASP vision and Zoning requirements unfulfilled

Further, as referenced in Table 1, the residential density for the proposed Neighborhood A is 80.9 dwelling units per acre. The TASP allows a density bonus of 25 percent for with approval of a use permit. This would increase the maximum permitted residential density to 62.5 dwelling units per acre. Clearly, the 80.9 dwelling units per acre exceeds the maximum permitted even with the use permit. Therefore, Neighborhood A does not comply with the density ranges permitted by the TASP and Zoning.

2. Commercial Uses

The TASP requires that 200 square feet of commercial space be provided per the minimum residential density for the MXD2 zone. Table 5 identifies the commercial square footage requirements for parcels Zoned MXD2 below:

Table 5
Commercial Area Requirements

APN	Zoning	Acres	Minimum Residential Density	Minimum Required Commercial Area	Commercial Provided
Portion of -101	MXD2	2.339	31 du/ac	14,501 square feet	55,431 square feet
-086	MXD2	3.127	31 du/ac	19,387 square feet	
-087	MXD2	2.662	31 du/ac	16,504 square feet	0 square feet
Sub Total				50,392 square feet	55,431 square feet
Clubhouse, Leasing Office, Gym					-5,683 square feet
Total				50,392 square feet	49,748 square feet

The Project shifts all required commercial/retail land use to Neighborhood A. The Project provides 55,431 square feet of space labeled as commercial. However, this space includes a club house, leasing office and gym. Subtracting this area from the square footage provided yields a total square footage of 49,748 square feet. This is less than the required commercial square footage for the project.

Further, the Project places all commercial area in Neighborhood A in one single large building along Great Mall Parkway. As discussed previously, there is no commercial space dedicated in Neighborhood B, as required by the MXD2 Zone. This aspect of the project is inconsistent with the TASP vision of high density mixed use neighborhoods and it is not permitted by the Zoning Ordinance.

This proposal challenges the historic application and interpretation of a key TASP policy. Policy 3.8 states:

“Policy 3.8: Allow contiguous developments to build at higher or lower residential densities, so long as their average density falls between the designated minimum and maximum.”

The policy does not permit the averaging of commercial square footage between parcels or the relocation of commercial uses, as it explicitly states “residential densities.”

Permitting commercial intensity to be averaged across multiple parcels would establish an inconsistent development pattern and land use in the TASP. The result of relocating required commercial development would create a single oriented strip of arterial commercial uses along Great Mall Parkway, which would be isolated and separated from the planned mixed use residential neighborhoods envisioned in the TASP. The proposed shift in both residential units and commercial/retail land uses represents a rewrite of the TASP without a proper specific plan amendment. Therefore, the Project is inconsistent the following TASP Goals:

- High intensity mixed use areas with housing, office, retail, restaurants, personal services, hotels and community facilities.
- Provision of a mixture of land uses that responds to market demands and provides opportunities for complementary uses.

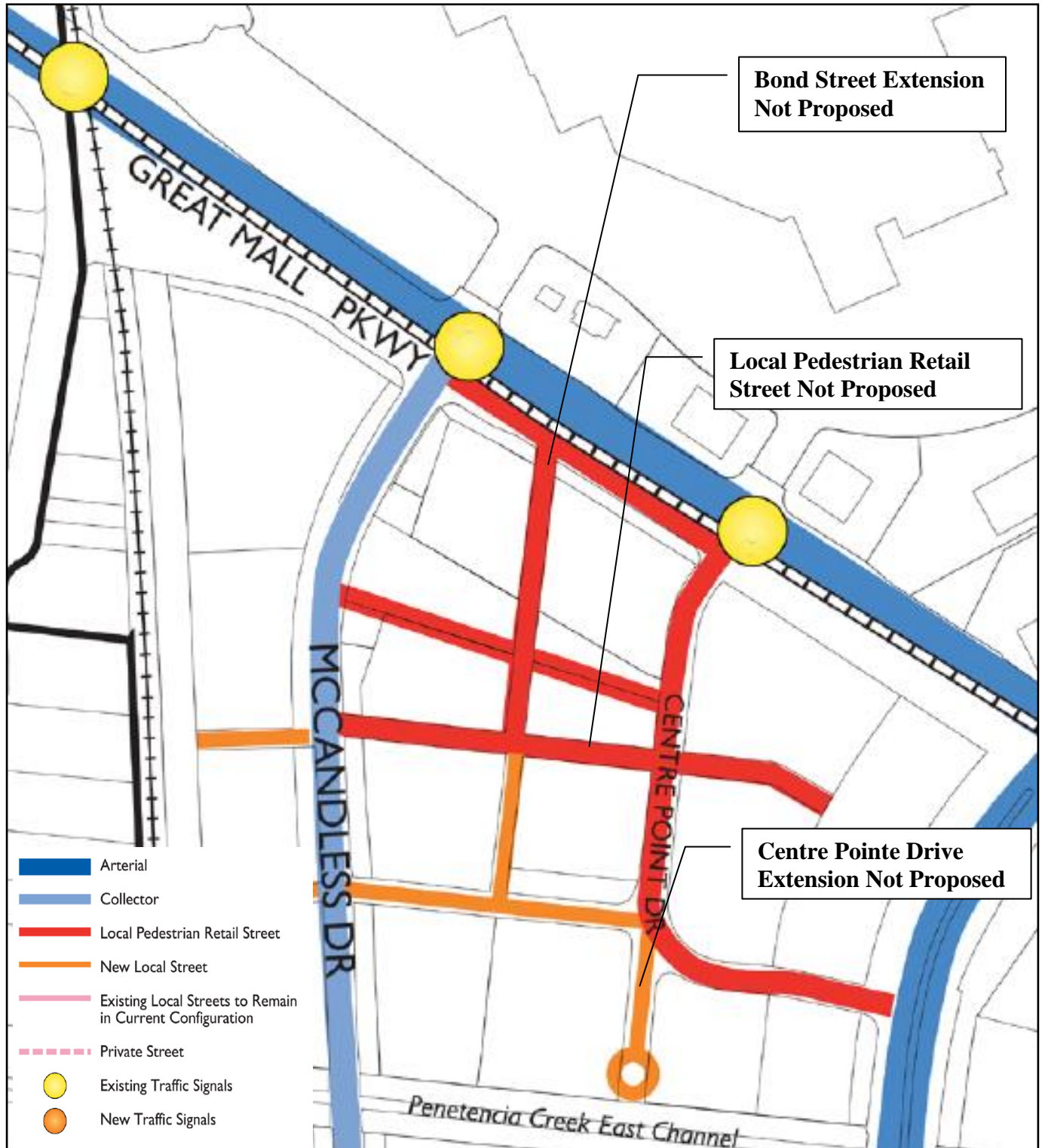
- Neighborhood serving retail uses in each sub-district so residents and workers can easily walk to shops, restaurants and services.
- Smaller two and three acre blocks to facilitate direct and easy pedestrian access between different land uses and areas.

Additionally, the commercial spaces within the single large building does not meet the minimum depth requirements for ground floor commercial uses, as prescribed by Table 5-1 in the TASP. Specifically, Table 5-1 states that ground floor commercial spaces shall be 75 feet deep with a minimum depth of 60 feet. The plans illustrate that the commercial spaces are only 34 feet deep, which significantly reducing their potential for successful commercial/retail tenants. This presents another inconsistency with the TASP, and another reason that the Planning Commission should not recommend project approval.

3. Circulation System

The proposed Project's circulation system is inconsistent with the TASP. Figure 7 illustrates the street network prescribed by the TASP. The inconsistencies with this network are summarized by street on the subsequent page.

Figure 7
TASP Street Network for Centre Pointe



Bond Street

The TASP illustrates Bond Street providing a connection to Great Mall Parkway. The proposed Project does not extend Bond Street to Great Mall Parkway and instead, Bond Street ends at a parking garage for Neighborhood A inconsistent with the TASP. TASP Policy 4.60 requires that block lengths do not exceed 450 feet, and encourages shorter block lengths of 300 to 400 feet. Bond Street measures approximately 610 feet from Newbury Street to Market Street. Therefore, Bond Street is inconsistent with the TASP street layout and block lengths.

Centre Pointe Drive

The street layout and alignment for proposed Centre Pointe Drive does not extend southward as planned for in the TASP. Additional analysis and studies are needed to determine the ultimate alignment and layout for this roadway and may be inconsistent with the TASP. Further, Centre Pointe Drive measures approximately 560 feet from Newbury Street to Market Street. This is inconsistent with TASP Policy 4.60 which requires block lengths not to exceed 450 feet.

Missing Street

The TASP Street Design and Character Plan illustrates a street bisecting the approximate location of Neighborhood B. The proposed Project does not incorporate this street. The TASP identified street is designed to be used as a pedestrian retail street. This proposed missing street further emphasizes the projects inconsistency with the TASP and the importance of providing mixed use development along a planned street frontage in Neighborhood B.

Montague Expressway

There are improvements identified in the TASP to Montague Expressway that do not match the street cross sections provided on the proposed Project. These include the following:

- Provision of a 20 foot wide frontage road and 10 foot landscape median separating the frontage from the bike lane.
- Policy 4.5 requires that new developments dedicate 79 feet of land from the roadway centerline. This information is not provided on the plans.

McCandless Drive

The Project proposes 15 foot wide elevated sidewalk and 14 foot landscaped and easement area from the building to the right of way. This is inconsistent with the TASP cross sections. TASP prescribes buildings to be placed at the back of a 25 foot wide sidewalk. A six foot wide sidewalk and 20 foot wide planting strip are to separate the sidewalk from the right of way.

Great Mall Parkway

The proposed Project is not consistent with the TASP standards for Great Wall Mall Parkway. Moving from the center of Great Mall Parkway toward the building, the TASP identifies a street cross section containing a 13 foot median/turn lane, 17 foot wide turn lane; 12 foot wide travel lane; six foot wide bike lane, 14 foot travel lane, 24 foot planning strip, 10 foot sidewalk and a 10 foot setback. The proposed Project includes a 22.5 planting strip, 12 foot stormwater treatment area and a 15 foot sidewalk, which is inconsistent with the TASP.

Block Length Policy

McCandless/Centre Pointe sub-district Policy 4.60 states that the “block dimensions shall generally be between 300 and 400 feet, and shall never exceed 450 feet.” The block length for the proposed Project

along Bond Street is approximately 610 feet, and the block length from Newbury Street to Market Street is approximately 560 feet. Both of these block lengths are inconsistent with Policy 4.60.

Street Facing Parking

TASP development standards prohibit parking that is visible from streets. Neighborhood A proposes parking along Great Mall Parkway. While the proposed Project indicate that landscaping might screen this parking area, additional information is required to determine if it is not visible from streets. Further, the goal of TASP is a pedestrian friendly, street oriented design. Placing parking at the front of a building along a street frontage is inconsistent with pedestrian and street oriented design objectives of the TASP.

Penitencia Creek Trail

The Project conforms to the overall setback of 45 from the top of the stream bank. However, the TASP requires that buildings be setback a minimum of 20 feet from the trail. The project proposes an 18.5 foot setback from the trail, which is inconsistent with the TASP.

Parking

The project complies with the parking required for the development.

Overall compliance

The table below summarizes other policies that the project does not comply with.

Table 6
Consistency with Transit Area Specific Plan Policies

Policy	Compliance
Policy 3.57: All properties along the trail network will need to set aside land for the trails. This land will count towards the required public park land dedication requirement. Refer to Figure 3-7 for required dimensions. If trail easements already exist or are acquired within the rail line or flood control right of ways, these easements may be used in lieu of land on development sites.	No.
Policy 3.59: Create a 45 foot deep continuous landscaped setback on Montague Expressway.	No.
Policy 4.1 (MON): High rise buildings are encouraged along Montague Expressway.	No.
Policy 4.4 (MON): A 45 foot wide, landscaped setback is required from the future right of way line of Montague Expressway.	No.
Policy 4.5 (MON): New development along Montague Expressway must dedicate land, such that a total of 79 feet from the roadway centerline is provided, to accommodate the future Montague Expressway widening project.	No.
Policy 4.69 (MC-C): Create a mixed use area with retail, restaurant, and personal service uses in the area closest to Great Mall Parkway.	Yes.
Policy 4.70 (MC-C): Create a high-density residential neighborhood at the interior of the sub-district, centered along McCandless Drive.	No.
Policy 4.71 (MC-C): Provide a grocery store within the Residential-Retail High Density Mixed Use district that serves neighborhood residents and provides a	No.

Policy	Compliance
range of fresh produce as well as meat, poultry, and fish.	
Policy 4.73 (MC-C): Create a plaza or other type of public space in the retail mixed use district, located as shown in the Plan Map.	No.
Policy 4.74 (MC-C): Create a trail along the Penitencia Creek East Channel.	Yes.

Development standards

The TASP includes development standards such as setbacks, floor area ratio, and height. The following table summarizes the project's conformance with these development standards.

Table 7
Neighborhood A Development Standard Summary

	TASP Requirement	Proposed	Complies
<u>Setbacks</u> (Minimum)*			
Great Mall Parkway setback	58 feet	56 feet	No
McCandless Drive setback	45 feet	33 feet	No
<u>Floor Area Ratio</u> (Maximum)	1.88 per building	0.28 max	Yes
<u>Building Height</u> (Maximum)	12 stories	80 feet (7 stories)	Yes

Table 8
Neighborhood B and C Development Standard Summary

	TASP Requirement	Proposed	Complies
<u>Setbacks</u> (Minimum)*			
Bond Street	0 feet – 5 feet	5 feet	Yes
Centre Pointe Drive	0 feet – 5 feet	5 feet	Yes
Montague Expressway setback	45 feet	43 feet	No

Architecture

The previous approvals and building architecture shown in TASP at the intersection of McCandless Drive and Great Mall Parkway was for buildings to exhibit an art deco architectural style. Key components of the art deco style include a symmetrical style using a combination of metal roofing, railings and canopies, stucco walls and fabric awnings. Elements characteristic of the art deco theme include towers, spires, and marquees and other ornamental features. The colors use a warm earth tone palette. Building 3 from the original approval consisted of a seven story tall structure along Great Mall Parkway and two other buildings being five stories. The original proposal provided adequate massing

as envisioned by the TASP along Great Mall Parkway. Figures 8 and 9 illustrate the envisioned and originally approved architecture in renderings.

The proposed architecture represents a deviation from the envisioned art deco style embodied in the approved plans and the TASP. The architectural style of the proposed Project is contemporary in nature, utilizing rectangular patterns, with a relatively uniform height. Further, the building utilizes repetitive push and pull elements to the façade which creates the appearance of one large and monotonous building. The Design Guidelines encourage corner buildings at gateway intersections to include corner vertical elements that emphasize the entries. The proposed project incorporates a vertical element at the corner, but it is only four feet taller than the roof of the adjacent portion of the building, which does not emphasize the corner feature. The TASP prescribes that mid-rise buildings have an identifiable base, mid and top sections, with the first base comprising the first two floors. The Project does not comply with these guidelines because it includes only a street level, first floor base, identifiable by glass windows. Further, there is no feature that defines the top level of the building. Based on this information the project is inconsistent with the TASP Design Guidelines.

The proposed architecture contrasts sharply with the 2012 approvals, and with the building located to the west of the project. The 2012 approval proposed an art deco theme comprised of towers, spires, polygons, and sphere and circles. The Project does not propose spires or ornamental features embodied in the art deco design and found on the adjacent building. The result of the proposed Project is two buildings with architectural styles that are not complimentary.

Figure 8
2012 Approved Rendering – District I Lot 1 Building



Figure 9
2012 Approved Rendering



Figure 10
2014 Proposal Along Great Mall Parkway



The condominium/townhome styles are two different styles for Neighborhoods B and C. These are shown below in Figures 11 and 12.

Figure 11
Neighborhood B Condominium/Townhome Units



Figure 12
Neighborhood C Condominium/Townhome Units



The proposed architecture is very different than the architecture proposed for the adjacent developments along McCandless Drive. Also it is a sharp contrast to the approved art deco style found on Lot 1 of the “District I and II” project. Based on this, staff is not in support of the proposed Project due to the incompatibility of the architectural styles. The proposed architecture would result in a mishmash of architectural styles in the McCandless/Centre Pointe and Montague Corridor sub-districts.

Other Items

The TASP illustrates a park to be provided on the north side of Market Street. However, the 2012 “District I” project was approved having the park on the south side of Market Street. The proposed

Centre Pointe Project shows the park on the north side of Market Street and part of the “District I” project. Further, the TASP illustrates the Park as being 0.86 acres. The plans show the park as 0.43 acres. The design and area of the park is inconsistent with Policy 3.40 of the TASP.

Traffic Study

Although the Transit Area Specific Plan EIR already evaluated the impacts on intersections and roadway segments, the original project approval required that the project submit to the City a focused traffic study to evaluate the ingress and egress of buildings and new streets onto McCandless Drive and Great Mall Parkway. The applicant has not submitted a traffic study for this Project.

Noise Study

The Project is located within the Conditionally Acceptable noise contour. The City’s General Plan requires that new construction should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design. The Project has not provided a study that would indicate interior noise levels are acceptable based upon General Plan standards.

Phase I Environmental Site Assessment

Policy 5.20 in the TASP requires that a Phase I study shall be completed to review the potential for ground water, soil, or other contamination related to previous land uses. If any potential for contamination is determined to exist that could adversely affect human health for residential uses, a Phase II level analysis shall be conducted per City, State, and Federal requirements. To date, a Phase I study has not been submitted.

FINDINGS FOR DENIAL

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

Major Tentative Map Findings (Section XI-1-20.01)

1. *The tentative subdivision map is **inconsistent** with the Milpitas General Plan and Transit Area Specific Plan.*

The proposed Project site has multiple General Plan land use designation. These include:

- Residential Retail High Density Mixed Use (RRMU)
- Multi-Family Residential High Density (MFH)
- Boulevard Very High Density Mixed Use (BVMU)

The intent of the designations is to provide high-density housing, commercial and employment along Great Mall Parkway, Centre Pointe Drive, and Montague Expressway at a minimum density range of 21 units per acre, and a maximum density of 60 units per acre. Further, the proposed Project is required to provide 200 square feet of commercial uses based on the minimum developable residential density on parcels -086 and -087.

As described in detail above, the proposed Project is inconsistent with this finding because the proposed Project does not provide commercial mixed use development on parcels -086 and -087. Second, the net square footage of commercial space provided (49,748 square feet) is less than what is required for the development (50,392). Third, the project locates all commercial space in Neighborhood A, and does not provide commercial space on MXD2 Zoned property in Neighborhood B. There are no General Plan or Specific Plan policies to support a transfer of the required commercial square footage from one parcel to other parcels. Further, the proposed Project does not meet the intent of the Boulevard, High Very High Density Mixed Use designation because it does not provide a mixed-use residential Project along Montague Expressway. There is no commercial square footage provided for this area. Additionally, the proposed residential density of 24.9 dwelling units per acre is less than the minimum requirement of 41 dwelling units per acre. Further, the project is inconsistent with the following General Plan Guiding Principle and Implementing Policies:

- *2.a-G-2 Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.*

The proposed Project is inconsistent with this Principle because it disperses residential development rather than concentrating it and creating high density neighborhoods. Residential uses are located more than one-third of a mile from commercial uses in the development. Additionally, block lengths exceed 600 feet which is more than the 450 foot minimum standard, and Neighborhoods B and C do not contain mixed-use development. All of these components of the Project violate key TASP policies. Therefore, service efficiencies are not achieved, and neither are job development and commercial opportunities.

- *2.a 1-31 Develop the Transit area, as shown on the Transit Area Plan, as attractive, high density, urban neighborhoods with a mix of land uses around the light rail stations and the future BART station. Create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each sub-district.*

The proposed Project is inconsistent with this policy because it does not include mixed use development on the correspondingly designated parcels. The project locates ground floor residential uses in the MXD2 Zone where the zone does not permit this use. The proposed Project does not fulfill the architectural guidelines because the building style does not reflect an art deco design embodied in the approved design for the adjacent “District” project. Further, the project does not comply with the TASP design guidelines by providing a defined bottom, middle and top sections. These factors limit the attractiveness of the project. The street network does not create pedestrian connections and lively attractive spaces because it does not provide streets as identified in the TASP, nor do the cross sections match the TASP.

The project pushes all residential density northward and dilutes the residential density at the southern portion of the project. The density for properties Zoned MXD2 is only 3.5 dwelling units per acre higher than the maximum density, while the density for properties in the MXD3 zone located at the southeast corner of the Project are 16 dwelling units per acre less than the minimum required density.

Accordingly, the project does not comply with the requirements of being an attractive, high density, urban neighborhood with a mixture of uses, and pedestrian friendly, attractive, and lively street spaces.

- *2.a 1-32 Require development in the Transit area to conform to the adopted design guidelines/requirements contained in the Transit Area Plan.*

The proposed Project is inconsistent with this policy because it has not been designed per the adopted design guidelines/requirements contained in the Transit Area Plan. As analyzed in detail above, the project does not meet the guidelines and requirements of the Transit Area related to building setback along Montague Expressway; commercial development on the mixed use parcels; ground floor residential uses; and a street system that does not conform to the network identified in the TASP.

Site Development Permit Findings (Section XI-10-57-03(F)(1))

2. *The layout of the site and design of the proposed buildings, structures and landscaping are incompatible and aesthetically not harmonious with adjacent and surrounding development.*

As analyzed in detail in the staff report and above, the proposed Project is incompatible and not harmonious with surrounding development because the site is designed with a large, oversized, mixed use building that does not reflect the art deco design approved for the parcel located at the southwest corner of McCandless Drive and Great Mall Parkway. Further, the condominium/townhome units are sprinkled across the parcels and do not embody a compact urban form as prescribed by Zoning and envisioned in the TASP. The configuration of the condominium/townhome units, including the mass, scale and height of the structures, are not typical of transit oriented development and does not include commercial uses fronting the proposed street network with residential units above as required by Zoning and envisioned in the TASP.

3. *The project is inconsistent with the Milpitas Zoning Ordinance.*

As analyzed in detail in the staff report and above, the proposed Project is inconsistent with the Milpitas Zoning Ordinance. The Project site is zoned MXD2, Mixed Use, High Density; R3, Multi-Family High Density Residential; and MXD3, Mixed Use, Very High Density. All zones contain a Transit Oriented Development (TOD) Overlay. The proposed ground floor residential uses in Neighborhood B are not permitted in the MXD2 zone. Further, proposed mixed uses and commercial uses are not provided on properties zoned MXD2. Instead, mixed uses and commercial uses are all located in one oversized building along Great Mall Parkway in Neighborhood A in conflict of the TASP. There are no TASP policies that support relocating or transferring required commercial mixed-use. The purpose of the MXD3 zoning district is to provide areas for very high density housing and commercial/retail uses in a mixed-use format. The proposed Project does not conform to this zoning district because the project does not incorporate high density mixed-uses in the required TASP locations.

The proposed Project also does not conform to the TOD Overlay because it does not provide a density within the 41-75 units/acre range required by the TOD Overlay when combined with the MXD3 zoning district.

The proposed Project does not conform to the development standards required in the MXD3 and TOD Overlay Districts. The table below demonstrates how the proposed Project is inconsistent with these development standards.

	TASP Requirement	Proposed	Complies
<u>Setbacks</u> (Minimum)*			
Great Mall Parkway setback	58 feet	56 feet	No
Montague Expressway setback	45 feet	43 feet	No
McCandless Drive setback	45 feet	33 feet	No

4. *The project is inconsistent with the Milpitas General Plan.*

As analyzed in detail above, the proposed Project is inconsistent with the Milpitas General Plan.

5. *The project is inconsistent with the Transit Area Specific Plan.*

As analyzed in detail in the staff report and above, the proposed Project is inconsistent with the Transit Area Specific Plan (TASP). The Project is located within the McCandless/Centre Pointe sub-district of the TASP and is designated as Residential Retail High Density Mixed Use (RRMU), Multi-Family Residential High Density (MFH) Boulevard Very High Density Mixed Use (BVMU) with TOD Overlays which qualifies the site for increased density. The proposed Project is inconsistent in three key areas. The first area is that the proposed Project provides multi-family housing on ground level parcels designated as RRMU. The intent of this classification is that the properties be developed as mixed use areas with residential units located above ground floor commercial uses. Second, the project redistributes the required commercial square footage from Neighborhood B to the proposed Neighborhood A. The TASP does not authorize the averaging or relocation of commercial uses. Third, the circulation system does not meet TASP standards. Block lengths are proposed to be 560 and 600 feet, which exceeds the 450 foot maximum, there are missing streets and street extensions, and the street cross sections are inconsistent with the TASP standards.

Further the Project is inconsistent with the following TASP Policies:

Policy 3.1: Develop at least 5,000 but no more than 9,350 housing units in the Transit Area.

The proposed low densities in Neighborhoods B and C and reliance on constructed an oversized mixed use building along Great Mall Parkway with a residential unit count that exceeds the TASP vision and Zoning requirements does not meet the development intensities required by the TASP.

Policy 3.17: New streets shall be located as generally shown on the Street System Map, Figure 3-2.

The proposed Project does not provide an extension of Bond Street to intersect Great Mall Parkway, nor does it provide a pedestrian retail oriented street that bisects Neighborhood B.

Policy 3.18: New development must dedicate land for new public streets and pay for their construction.

The project proposes private streets. The Specific Plan states that “all necessary right-of-ways must be dedicated for new public streets and the streets constructed following the street designs and streetscape standards.” The private streets and public streets do not meet the cross section standards as identified in the TASP.

Policy 3.40: Locate and size parks as generally shown on Figure 3-6, Parks, Public Spaces, and Trails.

Figure 3-6 in the TASP shows the park extending from McCandless Drive along a proposed roadway to Centre Pointe Drive. The proposed park terminates at Bond Street and does not extend to Centre Pointe Drive. Further, the TASP identifies the Park as being 0.86 acres. The plans show the park as 0.43 acres. Therefore, it is inconsistent with the TASP.

Policy 3.59: Create a 45 foot deep continuous landscaped setback on Montague Expressway.

The Project proposes a 43 foot deep setback along Montague Expressway in violation of the Policy.

Policy 4.1 (MON): High rise buildings are encouraged along Montague Expressway.

The Project proposes 3 and 4 story buildings along Montague Expressway and does not meet the intent of the policy or vision of the TASP.

Policy 4.4 (MON): A 45 foot wide, landscaped setback is required from the future right of way line of Montague Expressway.

The Project proposes a 43 foot wide landscaped setback based on the street cross section in violation of the Policy.

Policy 4.5 (MON): New development along Montague Expressway must dedicate land, such that a total of 79 feet from the roadway centerline is provided, to accommodate the future Montague Expressway widening project.

The proposed Project plans fail to demonstrate that this requirement has been satisfied.

Policy 4.60 (MC-C): Break the area into smaller scale blocks that are appropriate to residential development and the desired pedestrian scale for the neighborhood. Block dimensions shall generally be between 300 and 400 feet, and shall never exceed 450 feet.

The proposed block lengths exceed 450 feet. Bond Street, from Newbury Street to Market Street is over 600 feet long and Centre Pointe Drive is approximately 560 feet in length, both in violation of the above policy.

Policy 4.63 (MC-C): Create three street connections between McCandless Drive and Centre Point Drive. However, a public pedestrian pathway can be substituted for one of the streets.

The proposed Project does not provide three street connections. The proposed Project provides two connections – one at the proposed private Market Street and one at the proposed Newbury Street. The TASP allows alternative configurations, but states that block size requirements must be met. As demonstrated the project does not comply with block size requirements because blocks exceed 450 feet in length and the neighborhoods are larger than two to four acres.

Policy 5.3: All streets (public & private) shall be consistent with the street sections in Chapter 5 and shall meet any additional Milpitas Fire Department fire apparatus design requirements for access and firefighting operations.

The proposed Market Street does not match a street cross section shown in the TASP.

Conditional Use Permit Findings (Section XI-10-57.04(F))

1. *The proposed use, at the proposed location will be detrimental or injurious to property or improvements in the vicinity and negatively impact the public health, safety, and general welfare;*

As analyzed in detail above, the proposed Project does not meet the requirements, policies, or vision of the General Plan, TASP, or Zoning District and therefore, will be detrimental to public health, safety, and general welfare.

2. *The project is consistent with the Milpitas General Plan.*

As analyzed in detail above, the proposed Project is inconsistent with the Milpitas General Plan.

3. *The project is inconsistent with the Milpitas Zoning Ordinance.*

As analyzed in detail above, the proposed Project is inconsistent with the Milpitas Zoning Ordinance.

4. *The project is inconsistent with the Transit Area Specific Plan.*

As analyzed in detail above, the proposed Project is inconsistent with the Milpitas Transit Area Specific Plan.

5. *The deviation from the Transit Area Specific Plan Standard meets the design intent identified within the Specific Plan and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development.*

As discussed in detail above, the design deviations do not meet the intent of the specific plan. The block length, residential land uses, and on-street parking do not contribute to the overall architectural, landscaping and site planning integrity of the development.

6. *The deviation from the Transit Area Specific Plan Standard allows for a public benefit not otherwise obtainable through the strict application of the Zoning Standard.*

As analyzed in detail above, there is no public benefit with the proposed Project.

ENVIRONMENTAL REVIEW

As further described in this Report, the proposed Project is inconsistent with the Transit Area Specific Plan and additional environmental review, study and analysis will be required if the City Council wishes to approve the proposed Project to determine whether the proposed Project is consistent with the Transit Area Specific Plan EIR (State Clearinghouse No. 2006032091) certified by the City Council on June 3, 2008 (Resolution No. 7759). Additional technical studies include a traffic impact analysis, parking study, and noise study

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. Staff did not receive public comments as of the date of writing this Report.

CONCLUSION

The proposed Project is inconsistent with the Transit Area Specific Plan in multiple areas. The proposed Project provides ground floor residential uses where they are not permitted; concentrate residential density in one single area, while exceeding the maximum density permitted in some areas and not meeting the minimum density prescribed in other areas; redistributes commercial square footage when it is not permitted; does not provide mixed use development where it is required and envisioned; and does not conform to the circulation network identified in the Specific Plan. The architecture of the Project is not compatible with the approved "District I" buildings and it does not complement the development within the Transit Area Specific Plan. Overall, the project does not meet the TASP policies and objectives of creating mixed use neighborhoods, with lively and attractive character and distinct identity.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission

1. Conduct a Public Hearing; and
2. Adopt Resolution No. 14-038 recommending the City Council deny of Site Development Permit No. SD13-0013, Conditional Use Permit No. UP13-0013, and Major Tentative Map Amendment No. TM13-0007 for the Centre Pointe Project based on the Findings set for the above and in the attached Resolution.

ATTACHMENTS

- A. Resolution No. 14-038
- B. Tentative Map
- C. Site Plans
- D. Incomplete Letters